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Return or restitution of cultural property to the countries of origin

Note by the Secretary-General

The Secretary-General hereby transmits the report of the Director-General of the United Nations Educational, Scientific and Cultural Organization on the return or restitution of cultural property to the countries of origin in accordance with General Assembly resolution 61/52.[1]

* A/64/150.

[1] In paragraph 4 (d) of the annex to its resolution 58/316, the General Assembly decided that the item entitled "Return or restitution of cultural property to the countries of origin" would be considered every three years.

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Report of the Director-General of the United Nations Educational, Scientific and Cultural Organization on the action taken by the organization on the return and restitution of cultural property to its countries of origin

Summary

The present report, which covers a three-year period, describes the activities undertaken by the United Nations Educational, Scientific and Cultural Organization (UNESCO) to combat illicit trafficking in cultural property and facilitate its return and restitution to its country of origin in the case of illicit export or theft. In addition to action to promote and to assist Member States in the national implementation of the relevant international standard-setting instruments, UNESCO has taken steps to fulfil the recommendations adopted by the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation at its fourteenth and fifteenth sessions (held in 2007 and 2009, respectively).

Conclusions and recommendations are contained in paragraph 13 and in annexes II and III of this report. They were adopted by the member States and experts who met in Athens and in Seoul in March and November 2008, respectively, and at UNESCO headquarters in June 2009.

I. Introduction

1. Since the submission of the previous report by the Director-General (A/61/176), the United Nations Educational, Scientific and Cultural Organization (UNESCO) has continued its work towards the return and restitution of illicitly removed cultural property to its countries of origin. In addressing this issue, UNESCO has promoted the relevant international standard-setting instruments, worked directly with its member States as well as partner governmental and non-governmental organizations and taken steps to raise public awareness of relevant restitution and illicit trafficking issues. In particular, efforts have been made to fulfil the recommendations adopted by the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation at its fourteenth and fifteenth sessions (held in 2007 and 2009, respectively). The recommendations adopted by the Committee at the fifteenth session, in 2009 are annexed to this report.

II. Fifteenth session of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation

2. At the fifteenth session of the Committee, held in Paris from 11 to 13 May 2009, 21 of the 22 States members of the Committee[2] were represented. Forty States members of UNESCO that are not members of the Committee were also inscribed as observers, as were two permanent observer missions, four intergovernmental organizations, one non-governmental organization, 15 experts and three media representatives.[3]

3. The secretariat reported[4] to the Committee at its fifteenth session on developments since the Committee's previous session, including progress on the implementation of recommendations made at the fourteenth session, on promotion of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the 1995 International Institute for the Unification of Private Law (UNIDROIT) Convention on Stolen or Illegally Exported Cultural Objects and on activities carried out by UNESCO and its partners, including the International Council of Museums (ICOM), the International Criminal Police Organization (INTERPOL), the World Customs Organization (WCO), the Italian Carabinieri and the Central Office for the Fight against Traffic in Cultural Goods (OCBC) to combat illicit trafficking in cultural property more effectively. The report also covers the following items: promotion of bilateral relations between the countries involved in requests for restitution of cultural property that are currently pending before the Committee; development of the UNESCO cultural heritage laws database; the Athens International Conference on the Return of Cultural Property to its Country of Origin (17-18 March 2008),[5] the report

[2] A list of States members of the Committee is included in annex I to this report.

[3] See the list of participants at: http://unesdoc.unesco.org/images/0018/001825/182547M.pdf.

[4] Report available at: http://unesdoc.unesco.org/images/0018/001822/182210F.pdf.

[5] See: http://portal.unesco.org/culture/fr/ev.php-URL_ID=36430&URL_DO=DO_TOPIC&URL_SECTION=201.html.

of the extraordinary session of the Committee held in Seoul (25-28 November 2008);[6] the outcome of the meeting on the preparation of a draft declaration of principles relating to cultural objects displaced in connection with the Second World War (17-18 March 2009); the Committee's Fund; relations with the United Nations Economic and Social Council and the United Nations Office on Drugs and Crime (UNODC); Security Council resolution 1483 (2003), adopted on 22 May 2003, on Iraq and the protection of its cultural property; and, lastly, the status of ratification of the 1970 UNESCO Convention and the 1995 UNIDROIT Convention.

A. Consideration of cases pending before the Committee

4. At its fifteenth session, the Committee considered the three pending cases of restitution: the request by Greece for the restitution of the Parthenon marbles by the British Museum (United Kingdom), the request by Turkey for the return of the Boğazköy sphinx from Germany and the request by the United Republic of Tanzania submitted to the Barbier-Mueller Museum in Geneva through the intermediary of the Swiss Confederation for the restitution of a Makondé mask.

5. Regarding the first case and pursuant to recommendation No. 1 adopted by the Committee at its fourteenth and fifteenth sessions, the Director-General encouraged the holding of meetings between Greece and the United Kingdom on the subject of the Parthenon Marbles and once again offered the assistance of UNESCO. Contacts are being maintained between professionals in the two countries concerned and the secretariat has provided support for several meetings between representatives of those countries since 2007, including on 23 April 2009 in London. A meeting also took place on 12 May 2009 during the fifteenth session of the Committee. The British Museum has suggested offering certain panels on loan but makes that offer conditional on official recognition by Greece of the British Museum's ownership of the marbles. The Greek authorities have reiterated their wish to see the sculptures returned to Athens. Greece has also acknowledged fruitful cooperation with the United Kingdom on cultural matters and expressed the wish that it would work as a catalyst for finding a satisfactory solution. Greece and the United Kingdom jointly presented to the Committee a draft recommendation that the Committee adopted (see annex III, recommendation No. 1).

6. In accordance with recommendation No. 2 adopted at the fourteenth and fifteenth sessions of the Committee, the Director-General invited Germany and Turkey to continue their dialogue "with a view to bringing this issue to a mutually acceptable solution" for both parties and to hold "comprehensive bilateral negotiations" in order to find a mutually acceptable solution. It has also offered the Secretariat's assistance for that purpose. Turkey and Germany jointly presented to the Committee a draft recommendation that the Committee adopted (see annex III, recommendation No. 2).

7. Recommendation No. 3 of the fourteenth and fifteenth sessions relates to the Makondé mask. In close cooperation with UNESCO, discussions have begun to be held between the United Republic of Tanzania and the Swiss authorities, which are in regular contact with the owner of the museum holding the mask. Switzerland is playing an important facilitating role in the negotiations and the United Republic of

[6] See annex II.

Tanzania has given assurances concerning protection of the Makonde mask once it has been returned (see annex III, recommendation No. 3).

III. UNESCO database of national cultural heritage laws

8. At its twelfth session, the Committee invited the Director-General, UNESCO member States and observer States to contribute to the development of the UNESCO database of national cultural heritage laws, which is a reference tool and compendium of good practice. This database was officially launched in 2005 at the Committee's thirteenth session, thanks to financing from the United States. In 2008 and 2009, the United States renewed its support for the database development project by providing funds in trust. These resources serve to finance the implementation of a plan of action for the technical upgrading and promotion of the database (simplification of online procedures for adding files, introduction of ISO codes making it easier to identify countries for cross-searching between different databases and addition of a geographical map).

9. In the light of the ongoing digitization of earlier texts and current laws, the index of all legislation available at UNESCO has been duly modified and updated. To date, almost 2,200 laws from about 170 States members are accessible on the website http://www.unesco.org/culture/natlaws.

10. UNESCO member States are still strongly encouraged to submit their national cultural heritage legislation to the Secretariat, together with any relevant updated information (official contacts, relevant services, websites, and so on) for inclusion in the database. They are asked to provide officially to UNESCO information in electronic format (diskette, CD-ROM or electronic mail), together with an official written authorization from the competent national authority allowing UNESCO to reproduce the legislation and export/import certificates on its website and to insert a link between the UNESCO database of national cultural heritage laws website and the official national site, unless it is expressly specified that such a link is prohibited or not desired.

IV. Athens International Conference on the return of cultural property (17-18 March 2008)

11. At its thirteenth session, the members of the Intergovernmental Committee invited the Director-General to examine the possibility of financing an international conference of experts and actors in the field of the return and restitution of cultural property to analyse the legal and moral grounds associated with this issue, identify appropriate reinforcement of the existing legal and practical tools for and growing trends in this field, and propose future action thereon. On the initiative of Greece, during the Committee's fourteenth session, there was a unanimous recommendation that the Director-General of UNESCO organize that meeting in Athens, in cooperation with and with financial support from the Hellenic Republic, for the benefit of lawyers, museum professionals and experts in the field of the return of cultural property. This Conference was held on 17 and 18 March at the new

Acropolis Museum and formed part of a series of meetings[7] organized by UNESCO and its member States as forums for reflection and exchanges on the issue of the return of cultural property and providing a clearer picture of the challenges involved. This Conference also offered an opportunity for thinking about ways of enhancing the action of the Committee.

12. The Athens Conference convened a large number of governmental and non-governmental experts and a panel of high-level professionals who had been involved in discussions leading to the return and restitution of cultural property. The first day was devoted to particular cases of returned property presented by persons who had been involved (for example the return of the Axum Obelisk from Italy to Ethiopia; repatriation of ancestral remains from the United Kingdom to Australia, and so on). On the second day, discussions took place in four thematic workshops linked to the debate on returns (ethical and legal aspects; mediation and cultural diplomacy; museums, sites and cultural context; international cooperation and research). The conference proceedings have been published in English and French in a double issue of the UNESCO review *Museum International*, which was presented to UNESCO member States in May 2009.

13. At the conclusion of the Conference, the experts adopted a number of conclusions which included a call for UNESCO to continue to organize international conferences in order to intensify the study of the issue of the return of cultural property to its country of origin in order to produce viable and realistic solutions. They recognized that it was the original context that gave certain categories of cultural property their authenticity and unique value and that return and restitution operations could be a powerful vehicle for cooperation and economic promotion. The participants also recalled that the return of cultural objects was directly linked to the rights of humanity (preservation of cultural identity and preservation of world heritage) and, in that context, it was essential to sensitize the public about that issue and especially the younger generation. Lastly, the experts called for a strengthening of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, particularly in its role of mediation and research into alternative means of dispute resolution.

V. Extraordinary session of the Intergovernmental Committee

14. For the first time in its history, and in order to celebrate its 30 years of existence, the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation held an extraordinary session. This exceptional meeting was held in Seoul from 25 to 28 November 2008 at the invitation of the Government of the Republic of Korea and pursuant to recommendation No. 6, adopted at the Committee's fourteenth session, in which States were invited to consider the elaboration of a future strategy for its work and to bring proposals and ideas for new approaches to the issue of the return and restitution of cultural property and of international cooperation in that domain. It also provided an opportunity to continue the discussions initiated at UNESCO on the subject of improving the operation of the Committee and its

[7] "Memory and Universality: New Challenges Facing Museums", debate organized by UNESCO in February 2007.

mandate, particularly during the debate on "Memory and Universality: New Challenges for Museums" (5 February 2007) and, above all, the Athens International Conference on 17 and 18 March 2008 on the return of cultural property to its countries of origin.

15. On 26 November, the first day of the extraordinary session, a public meeting of non-governmental experts was held under the auspices of the Republic of Korea. The invited experts engaged in a discussion of the Committee's past and future. The experts also showed interest in the study of symbolic cases of restitution in the world, whether or not carried out under UNESCO auspices, and in the question of return and restitution from an Asian perspective. The Korean authorities will be issuing a specific publication devoted to the proceedings of this non-governmental expert meeting.[8] The extraordinary session itself was held during the next two days, 27 and 28 November 2008. It offered an opportunity to take stock of the Committee's action over 30 years from the point of view of UNESCO and of several independent experts, discuss ways of strengthening its action and present the activities carried out by UNESCO partners (INTERPOL, the Italian Carabinieri force and ICOM). Generally speaking, all participants reaffirmed the importance of the Committee as a platform for States to exchange experience in fighting trafficking. The State representatives and experts, meeting together, called for the intergovernmental body to play an increasingly international role, having regard to growing world interest in issues relating to trafficking and to the return and restitution of cultural property. With that in view, during discussions on the recommendations of the extraordinary session, the members of the Committee debated at length the proposal that the ordinary sessions of the Committee be held yearly (instead of once every two years, as has been the case since its establishment), drawing on extrabudgetary financing as UNESCO's regular budget does not for the time being allow such frequent meetings.

16. Among other highlights of the discussions, the members of the Committee examined the question of updating and promoting the 1999 UNESCO Code of Ethics for Dealers in Cultural Property and the standard form for requests for return or restitution and its possible simplification, as well as various ways of more effectively informing and raising the awareness of States, actors in the art market and the public at large concerning the scourge of trafficking in cultural property. The experts also raised the possibility of a model law for the protection of cultural property or benchmarks in regard to State ownership of such property being drafted by the Committee. The debate on alternative modes of non-judicial settlement of cultural property disputes was also given attention by the participants, who considered that it would be for the Committee to take up that key issue in the future. As to the debate on the international community's growing interest in matters of cultural heritage protection, return and restitution, it highlighted the need to study in greater depth the major international legal and ethical principles underpinning the protection of cultural property. Lastly, in regard to the development of mediation and conciliation functions within the Committee, the experts considered that the adoption of the related draft rules of procedure would be an excellent means of strengthening the intergovernmental body and that the survey conducted by the Secretariat to collect States' comments on the draft would be very useful in that respect.

[8] The conclusions of this meeting of experts are contained in annex II to this report.

VI. Draft rules of procedure on mediation and conciliation

17. The General Conference of UNESCO, at its thirty-third session, adopted 33 C/Resolution 44, which added mediation and conciliation to the mandate of the Committee. Draft rules of procedure drawn up by the Secretariat on the basis of recommendation No. 3, adopted by the Intergovernmental Committee at its thirteenth session, were submitted to the Committee at its fourteenth session. Two rules out of eleven were considered and amended. An amended version of the draft rules had been circulated previously, at the fifteenth session, to the members of the Committee and to all the other States and observers for comment. A summary of the comments and amendments received and a consolidated draft of the rules were subsequently prepared by the Secretariat. The consolidated draft was again transmitted to the members of the Committee and to other States and observers for consideration. A long debate on the first four draft rules ensued and it was decided to establish a working group to prepare a proposal reflecting the different views. The working group proposed amendments in plenary session and the first three draft rules were adopted. However, the Committee was unable to reach consensus on draft rule 4 on eligibility criteria for the parties. It was therefore decided to constitute a subcommittee to consider the draft rules and to report to the Intergovernmental Committee at a later date.[9]

VII. Declaration of principles concerning cultural objects displaced in connection with the Second World War

18. Three sessions of the intergovernmental meeting of experts on the draft declaration of principles have been held so far (July 2006, March 2007 and March 2009). The preparation of the draft declaration was launched following the adoption by the General Conference of UNESCO of 33 C/Resolution 45, which stipulated, in particular:

- That the subject of cultural objects displaced in connection with the Second World War should be the subject of a standard-setting instrument; and
- That the form of this instrument should be a non-binding "declaration of principles".

19. The main results of the July 2006 session consisted essentially in the disappearance, where appropriate, of prescriptive formulations ("shall" in English; "eternal" present tense in French) and the suppression of the principle of compensation for war damage. Owing to the lack of time, the preamble was not studied and two draft principles were left in square brackets. The March 2007 session, at which the final draft of the draft principles was prepared, focused on the preamble and the two draft principles left in square brackets. On that occasion, the experts decided not to retain principle XII concerning lost or destroyed cultural property. The draft declaration was adopted by a vote of 28 member States in favour and 3 against, with 2 abstentions. Lastly, at the third session, in March 2009, some amendments were adopted by consensus. However, no consensus was achieved among all the participants on the entire text, in particular on principle XI on the exclusion of war damage. The draft declaration resulting from the work of that

[9] See annex III, recommendation No. 4.

meeting, which was submitted to the Executive Board at its 181st session, requested the Director-General of UNESCO to submit the draft to the General Conference at its 35th session, in October 2009, for its decision.

VIII. The Fund of the Intergovernmental Committee

20. The Fund of the Committee was established in November 1999 by resolution 30 C/27 of the General Conference of UNESCO, pursuant to recommendation No. 6, which was adopted the same year by the Committee at its tenth session. The purpose of the Fund is to support member States' efforts to combat effectively trafficking in their cultural property, particularly with regard to the verification of cultural objects by experts, their transport, insurance costs, establishment of facilities for displaying them in good conditions and the training of museum professionals in the countries of origin of cultural property. To date, thanks to donations from Greece, the amount available in the Fund stands at some €60,000.

IX. Strategy proposals for the future work of the Intergovernmental Committee

21. In pursuit of the discussions held in Athens in March 2008 and in Seoul in November 2008, and continuing the Committee's reflections on its raison d'être and its future work, the Secretariat of UNESCO invited various experts to participate in the work of the fifteenth session of the Committee and to address its member States.

A. Ethical principles and legal rules applicable to the return of cultural properties

22. Professor Tullio Scovazzi of the University of Milan presented to the members of the Committee and other observers his views, expressed on behalf of UNESCO, on the topic of ethical principles and legal rules and their impact on the return of cultural property. These principles, as they apply to the protection of cultural heritage and the return and restitution of cultural property, were reviewed and assessed in order to determine the extent to which they could facilitate the Committee's work in promoting the return of cultural property to its countries of origin or its restitution in case of illicit appropriation.[10]

B. Alternative methods of non-judicial conflict resolution

23. Aside from bilateral methods of conflict resolution (restitution pure and simple, for example), States also rely on organizations like UNESCO to facilitate, through diplomacy and intergovernmental dialogue, the settlement of conflicts involving cultural property. The Committee could thus compile an inventory of all of the alternative methods of resolving such conflicts, building on the work done by research bodies and centres, such as the International Centre for the Study of the

[10] This study is available on the UNESCO website: http://portal.unesco.org/culture/en/files/39157/12433501641Scovazzi_E.pdf/Scovazzi_E.pdf.

Preservation and Restoration of Cultural Property (ICCROM) and ICOM, the Permanent Court of Arbitration, the Committee on Cultural Heritage Law of the International Law Association, the Art Law Centre of the University of Geneva, and the Centre for Studies on International Legal Cooperation (CECOJI)-University of Paris-South XI National Centre for Scientific Research (CNRS) Research Centre for Cultural Heritage Law, which could cooperate with UNESCO or are already doing so. These alternative methods would then be made available to States, together with model agreements, directly on the UNESCO website.

24. To this end, the Secretariat has asked two academics — Marie Cornu, Research Director at the CNRS, and Marc-André Renold, Professor at the Law Faculty of the University of Geneva — to present to the members of the Committee and to observers the outcome of the research which they are currently undertaking on alternative methods for the settlement of disputes and the restitution of cultural property. Both have already given several lectures on this topic and are co-authors of an article which will be appearing on this subject in the second quarter of 2009 in the *Journal du droit international* (Clunet).[11] The States members of UNESCO welcomed these reflections and analyses and specifically requested the Director-General to continue, with the experts' help, to pursue the study of this matter.

X. Draft model legal provisions guaranteeing State ownership

25. On the occasion of the thirtieth anniversary of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation (Seoul, November 2008), the issue of preparing model legal provisions for the protection of cultural property against trafficking was extensively discussed. These model legal provisions would be offered to States as an example for their own legislation and adapted by them in accordance with their legal tradition. They should clearly lay down the principle of State ownership of cultural property, particularly archaeological property. The aim is to ensure that all States are "equipped" with sufficiently explicit legal principles that guarantee such ownership and may be invoked during legal proceedings between two States or between a State and a foreign private entity concerning claims to cultural property. The incorporation of such principles into national legislation goes hand in hand with ratification of the 1970 UNESCO Convention and the 1995 UNIDROIT Convention,[12] essential legal steps that must be taken by States wishing to combat trafficking in cultural property effectively. In this context, appropriate legislation would enable the international instruments to be applied more effectively.

26. The States members of UNESCO have welcomed the idea of drafting model legal provisions and have recommended that a committee of independent experts from the UNESCO and UNIDROIT secretariats should continue to consider the issue. The Committee will be responsible for preparing model legislative provisions defining State ownership, particularly of archaeological heritage, which could provide a basis for national laws and foster the standardization of terminology

[11] See *Journal du droit international* (Clunet), vol. 136, No. 2, April-May-June 2009.

[12] To this effect, the participants in the extraordinary session at Seoul pressed for fresh impetus to be given to the promotion of the UNIDROIT Convention, with a view to securing wider ratification.

among them, taking into account not only legal issues but also ethical, philosophical and historical issues.

XI. International cooperation

A. New States parties to the 1970 UNESCO Convention and the 1995 UNIDROIT Convention

27. Since 2007, eight States have become parties to the 1970 UNESCO Convention (New Zealand, Norway, Montenegro, the Republic of Moldova, Germany, Chad, Belgium and the Netherlands), bringing the total number of States parties to 119. The 1995 UNIDROIT Convention now has 29 States parties, following ratification by New Zealand and Greece in 2007 and 2008.

B. Cooperation with INTERPOL, UNIDROIT and ICOM

28. UNESCO continues to maintain fruitful cooperation with INTERPOL, UNIDROIT, WCO and ICOM in combating trafficking and in developing and implementing tools that facilitate the return and restitution of cultural property. Each of these organizations regularly invites experts and representatives of the other organizations to participate in its meetings, thus contributing to the consolidation of common ground and to information exchange on trafficking and restitution.

29. UNESCO participated in the fifth and sixth meetings of the INTERPOL Expert Group on Stolen Cultural Property in Lyons (2008) and at UNESCO Headquarters (2009). Among the recommendations adopted, the experts encouraged the use of tools such as the UNESCO-WCO Model Export Certificate for Cultural Objects and the database of laws and supported UNESCO initiatives to raise public awareness of the protection of this heritage and to assist its member States in introducing similar initiatives at the national level, in particular for children (see below, "Training workshops and awareness-raising campaign"). The experts also wished to recommend that national authorities continue their action against trafficking in cultural property through the Internet[13] and conclude special cooperation agreements with the main virtual auction sites. Lastly, emphasizing the crucial role of art market professionals in combating trafficking in cultural property, UNESCO and ICOM were encouraged to strengthen links with the main actors in the art trade.

C. Relations with the art market and codes of ethics

30. In response to the recommendations of its member States and the international organizations with which it works, UNESCO has established professional contacts with the auction houses Christie's and Sotheby's and with the Syndicat national des antiquaires (France). In addition, it is clear that the International Code of Ethics for Dealers in Cultural Property, developed by UNESCO in 1999 on the basis of the code of the International Confederation of Art Dealers (CINOA), is not sufficiently well known or respected by art dealers and the art market, as the confederations of

[13] http://portal.unesco.org/culture/fr/files/21559/11836449659MesuresTraficIllicite.pdf/MesuresTraficIllicite.pdf.

antique dealers and auction houses have also acquired their own code of professional ethics. Through the Committee and States, and taking account of the recommendation to depart from the wholly intergovernmental framework and work more with the art market, museums, private experts and civil society, UNESCO is engaging in a further campaign of promotion and is compiling a worldwide register of dealers in cultural property who make effective use of the Code, with a view to noting their critical remarks in this respect and updating the Code if need be.

31. It has been noted that, in general, museums are increasingly scrupulous in observing codes of ethics, particularly the ICOM code, and are more and more attentive to the principles and problems involved in the acquisition of works of unknown provenance. Experts who met at UNESCO have proposed that a code of ethics for collectors could also be drawn up in the same way, complementing the ICOM code. Such a specific code could be based in part on the 1995 UNIDROIT Convention, for example.

D. Training workshops and awareness-raising campaign

32. An information and training workshop on action to combat trafficking in cultural property in the Andean countries was held in Quito, from 17 to 20 September 2008. Moreover, the UNESCO Office in Baghdad and the Museums and Cultural Objects Section jointly organized, in June 2007 and November 2008, two training seminars on combating trafficking in cultural property for Iraq and its neighbours (Palestine, Jordan, Lebanon and the Syrian Arab Republic). The second part of this training course was designed more specifically for Iraqi lawyers, museum specialists, civil servants and police officers. A training activity was also organized in Vicenza, Italy, in partnership with the Italian Carabinieri and with the support of the Italian cooperation agency, for the countries of Africa in June 2009. The next training activity, which will take place in the second half of 2009, will focus on the States of Central America and the Caribbean and will be concerned more particularly with combating and preventing thefts of cultural objects of religious origin. Furthermore, a biennial training project on combating trafficking in cultural property in Mongolia has now been set up in cooperation with Monaco. Lastly, workshops and materials for promoting Iraqi heritage among children will be developed in 2009-2010 in conjunction with the UNESCO Office in Baghdad.

33. In May 2008, the Director-General of UNESCO sent a letter to States members of the Organization, observers, associate members, intergovernmental organizations, non-governmental organizations and major actors in the art market alerting them to the severity of the problem of trafficking in cultural property worldwide, particularly from the Mesopotamian region. In this connection, UNESCO is developing an audio-visual awareness-raising campaign in the form of a 20-minute film and a series of two-to-three-minute video clips. With this in view, UNESCO is seeking technical and financial support from partners such as airline companies, tour operators, international airports and others, so as to disseminate the awareness-raising campaign as widely as possible.

34. On the occasion of the Committee's thirtieth anniversary, UNESCO published, under the supervision of Professor L. V. Prott, the compendium *Witnesses to History — Documents and writings on the return of cultural objects*, which presents, in a volume of some 450 pages, articles written by some of the world's

leading experts on the return and restitution of cultural property, which go beyond the purely legal dimension. The compendium offers an overview of the historical, philosophical and ethical aspects of the return of cultural objects, cites examples of past and current cases and analyses a number of legal questions. It is a work suitable for students and the general public as well as a reference book for specialists, researchers and decision makers. It also illustrates how certain peoples have lost their entire cultural heritage and analyses the issue of return and restitution of that heritage by presenting a broad range of perspectives on the subject.

E. United Nations

35. The Director-General of UNESCO, in his letter of May 2008, again drew the international community's attention to resolution 1483 (2003) adopted by the United Nations Security Council on 22 May 2003. The resolution requests States Members of the United Nations to "take appropriate steps to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since the adoption of resolution 661 (1990) of 6 August 1990, including by establishing a prohibition on trade in or transfer of such items and items with respect to which reasonable suspicion exists that they have been illegally removed". The resolution also calls upon UNESCO, INTERPOL and other international organizations, as appropriate, to assist in the implementation of this obligation.

36. Following the adoption by the Economic and Social Council of resolution 2008/23 of 24 July 2008, UNESCO responded favourably to the Council's request that the United Nations Office on Drugs and Crime convene, in close cooperation with UNESCO, an intergovernmental expert group meeting, with a view to preparing recommendations on protection against trafficking in cultural property for submission to the Commission on Crime Prevention and Criminal Justice at its eighteenth session. UNESCO is ready to continue working on the topic of organized crime with reference to trafficking but suggests that representatives of the United Nations Office on Drugs and Crime also be involved in the work conducted by UNESCO with its partners and through the Committee.

37. At the fifteenth session of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation and during the discussions on the draft rules of procedure on mediation and conciliation, a representative of the World Intellectual Property Organization (WIPO) presented her organization's work, particularly in the area of mediation and conciliation, and offered her organization's assistance in the work of UNESCO.

XII. Conclusion

38. Given the renewed interest of the international community in general, and the member States of UNESCO in particular, in the issue of combating trafficking in cultural property and arrangements for its return and restitution, the members of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation expressed

support for the idea of holding annual meetings of the Committee, provided that extrabudgetary funds could be mobilized for that purpose. They also decided to intensify the current debate and continue discussions on those topics by holding the sixteenth ordinary session of the Committee at UNESCO headquarters in the first half of 2010 (recommendation No. 5 of the Committee at its fifteenth session). The session will coincide with the fortieth anniversary of the 1970 UNESCO Convention and the fifteenth anniversary of the adoption of the 1995 UNIDROIT Convention.

39. Member States are invited to refer in particular to the recommendations in annex II to this report. They were adopted by the members of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation on the occasion of its thirtieth anniversary in Seoul in November 2008. Readers of this report are referred to the conclusions of the Athens International Conference on the Return of Cultural Property to its Country of Origin of March 2008, which are given in paragraph 13 of this report.

Annex I

Members of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation

According to the elections held during the 34th session of the General Conference of UNESCO (16 October-4 November 2007)

The 22 members of the Committee are elected from the UNESCO member States and renewed by half at elections that take place every two years during the General Conference.

*Angola	*India
–Belarus	–Italy
*Bolivia	–Japan
–Burkina Faso	–Libyan Arab Jamahiriya
*China	–Mongolia
*Columbia	–Niger
–Czech Republic	–Peru
*Egypt	*Republic of Korea
–Greece	*United Republic of Tanzania
*Guatemala	–United States of America
*Hungary	–Zimbabwe

* The General Conference of UNESCO elected, in its 33rd session (Paris, October 2005), member States above-mentioned to be part of the Committee. Their mandate will expire at the end of the 35th session of the General Conference of UNESCO (2009).

– The General Conference of UNESCO elected, in its 34th session (Paris, October 2007), member States above-mentioned to be part of the Committee. Their mandate will expire at the end of the 36th session of the General Conference of UNESCO (2011).

Annex II

Extraordinary session in celebration of the thirtieth anniversary of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation: its past and future

Seoul, Republic of Korea, 25-28 November 2008

Recommendation

The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation hereinafter mentioned as "the Committee",

Expressing its appreciation to the Korean authorities for organizing this Extraordinary Session of the Committee commemorating its thirtieth anniversary,

Welcoming a recent increase in the number of returns of cultural property to its countries of origin, and *acknowledging* a rise in awareness of the general public, researchers and institutions, in the return of cultural property to its countries of origin or its restitution in case of illicit appropriation as well as the fight against illicit traffic,

Recognizing that in its 30 years of existence, the Committee has made substantial achievements in the raising of awareness concerning the return of cultural property to its countries of origin or its restitution in case of illicit appropriation and concerning the fight against illicit traffic,

Mindful of the need to further strengthen the role of the Committee as a facilitator for the return of cultural property to its countries of origin or its restitution in case of illicit appropriation, including through bilateral negotiations,

Taking note of the discussions and the conclusions of the Athens International Conference on the return of Cultural Objects to their Countries of Origin (March 2008) and of the meeting of the non-governmental experts held in Seoul in November 2008,

Reaffirms that certain categories of cultural property fully reveal their authenticity and unique value only in the cultural context in which they were created;

Encourages the States concerned to continue and intensify their efforts with a view to resolving disputes on the return of cultural property or restitution in case of illicit appropriation, by amicable means through bilateral negotiations complemented by other means, such as mediation and conciliation, bearing in mind that in many cases this may involve non-state actors;

Encourages international cooperation with a view to assisting developing countries in building their capacity to facilitate restitution of their cultural property;

Encourages States through international cooperation to develop inventories of their cultural property wherever located and to make better use of existing databases of stolen works of art;

Suggests collecting information on successful restitutions and setting up a database thereon;

Invites States to consider becoming parties to the international instruments relating to the return of cultural property to its countries of origin or return in case of illicit appropriation, and the fight against illicit traffic;

Invites States to consider a more active use of the Committee;

Considers that adoption of rules of procedure on mediation and conciliation will be a significant step to strengthen the role of the Committee;

Urges the development of innovative ways to raise awareness for the return of cultural property to its countries of origin or restitution in case of illicit appropriation, and the fight against illicit trafficking;

Suggests that the International Code of Ethics for Dealers in Cultural Property be amended and *considers* that further efforts should be made to encourage the art market to respect it;

Encourages contributions to the International Fund for the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation;

Invites the Director-General to include an item in the agenda of the Committee's fifteenth Ordinary Session concerning a strategy for the future work of the Committee, within the framework of its mandate, and to prepare a document to that end.

Annex III

Recommendations of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation

UNESCO Headquarters, 11-13 May 2009, Paris

Recommendation No. 1

The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation

Acknowledging relevant UNESCO resolutions and recommendations,

Expressing its continuing concern for a solution to the issue of the Parthenon marbles,

1. *Welcomes* in this respect the meeting held on 23 April 2009 in London between the Ministries of Hellenic and British Culture, together with observers from UNESCO and the British Museum;

2. *Acknowledges* the fruitful cooperation between Greece and the United Kingdom on cultural matters and *expresses the wish* that this should continue and work as a catalyst in this respect;

3. *Acknowledges* with great satisfaction the accomplishment and opening of the new Acropolis Museum on 20 June 2009, wherein it will be possible for the Parthenon marbles to be exhibited in a special hall in direct visual contact with the monument;

4. *Thanks* Greece for inviting the Director-General of UNESCO and representatives from the United Kingdom to the opening ceremony of the Museum;

5. *Takes note* that three sculptural fragments have respectively been returned from the University of Heidelberg and loaned from Italy and the Vatican to Greece to be co-exhibited in the Parthenon Hall for the sake of their reunification with the original parts from which they were detached;

6. *Invites* the Director-General to assist in convening necessary meetings between Greece and the United Kingdom with the aim of reaching a mutually acceptable solution to the issue of the Parthenon marbles.

Recommendation No. 2

The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation

Recalling the request of Turkey for the sphinx of Boğazköy, which is currently on display in the Berlin Museum,

Noting the legal and cultural arguments that have been made by both States concerned over a number of years,

Recalling the previous recommendation No. 2 adopted by the Committee on this question at its sixth, tenth, eleventh, twelfth, thirteenth and fourteenth sessions,

Acknowledging the continuing concern of Turkey for the long-awaited resolution of the issue of the sphinx,

Noting that Turkey has transmitted a new dossier to the German side regarding the sphinx during the seventeenth session of the Turkish-German Joint Cultural Commission meeting which took place in Ankara on 16 and 17 October 2006,

Recalling that the issue of the return of the sphinx is a pending agenda item of the Committee since 1987,

Noting with satisfaction that the 7,400 cuneiform tablets which were part of the original request of Turkey from the German Democratic Republic were returned in November 1987, following the fifth session of the Committee in April 1987,

Noting also that the Boğazköy sphinx was situated at Boğazköy (Hattusha) where it was excavated, which was the capital of the Hittite Empire and is currently inscribed in the UNESCO World Heritage List,

1. *Expresses* its hope that the pending request of Turkey with regard to the issue of the sphinx will be solved through bilateral negotiation;

2. *Takes note* of the fact that the last bilateral negotiations on this issue took place on 19 November 2002 in Berlin, without reaching a solution;

3. *Invites* both Parties to hold comprehensive bilateral negotiations as soon as possible with a view to bringing this issue to a mutually acceptable solution;

4. *Also invites* the Director-General to continue his good offices towards the resolution of this issue and to report to the Committee at its sixteenth session.

Recommendation No. 3

The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation

Recalling the previous recommendation No. 3 on this question at its fourteenth session,

Acknowledging the role of Switzerland to act as a facilitator in the negotiations between the United Republic of Tanzania and the Barbier-Mueller Museum,

1. *Welcomes* the constructive negotiation process which is carried out with a view to the return of the Makondé mask;

2. *Notes* the assurance statement for the protection of the Makondé mask provided by the United Republic of Tanzania on 5 May 2009;

3. *Encourages* the United Republic of Tanzania and Switzerland to continue their efforts to resolve this matter in a positive manner.

Recommendation No. 4

The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation

Taking note of the progress achieved during the examination of the draft rules of procedure on mediation and conciliation,

1. *Decides*, in the application of rule 10.1 of its Rules of Procedure, to constitute a subcommittee to continue intersessional discussions on the draft text and to present the results of its work during the next session of the Committee;

2. *Decides* that the subcommittee, which will be open-ended, will be composed in accordance with the principles of a balanced geographic distribution after consultation with the Presidents of the regional groups.

Recommendation No. 5

The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation

Decides to hold its sixteenth ordinary session at UNESCO Headquarters during the first half of 2010.